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8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA

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11 IN RE ABBOTT LABS NORVIR)
12 ANTITRUST LITIGATION,)
13 This Document Relates to All) Nos. C04-1511 CW (BZ)
14 Actions.) C04-4203 CW (BZ)
15 _____) **THIRD DISCOVERY ORDER**
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Before the court are: (1) letter briefs with respect to the issue of whether Abbott at this stage of the litigation must provide discovery with respect to the validity and enforceability of Abbott's Norvir patents; and (2) cross motions on the issue of whether William Dempsey of Abbott should be deposed. A telephone hearing was held on January 18, 2006, at 4:15 p.m. Both sides were represented by counsel. Because there is an urgency in resolving these disputes, I find that there is no need for further briefing or argument.

Having read Judge Wilken's Order Granting Plaintiffs' Rule 56(f) Motion And Denying As Premature Defendant's Motion For Summary Judgment, filed September 12, 2005, I conclude

1 that Judge Wilken did not grant plaintiffs relief under Rule
2 56(f) which permits them to take discovery with respect to the
3 patents' validity and enforceability, at least at this time.

4 **IT IS THEREFORE ORDERED** plaintiffs' request for an order
5 compelling Abbott to produce such discovery is **DENIED**.

6 With respect to the Dempsey deposition, for the reasons
7 stated during the hearing, **IT IS ORDERED** that Abbott's Motion
8 for Protective Order is **GRANTED** through and until resolution
9 of the pending Motion for Summary Judgment.

10 DATED: January 18, 2006



11 Bernard Zimmerman

12 United States Magistrate Judge

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